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Honorable Robert W. Sweet, United States District Court Judge  
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

-----X JURY TRIAL DEMANDED

UNITED NATIONAL SPECIALTY  
INSURANCE COMPANY

Docket No.: 08 CV 2936

Plaintiff,

-against-

ANSWER

563-569 CAULDWELL REALTY LLC, f/k/a 381 E.  
160 EQUITIES, LLC, M&P REALTY MANAGEMENT  
LLC and OMAR PANIAGUA,

Defendants.

-----X

**ANSWER OF DEFENDANTS 563-569 CAULDWELL REALTY LLC, f/k/a 381 E. 160  
EQUITIES LLC and M&P REALTY MANAGEMENT LLC**

Defendants 563-569 CAULDWELL REALTY LLC, f/k/a 381 E. 160 EQUITIES, LLC,  
M&P REALTY MANAGEMENT (hereinafter "Cauldwell" and "M&P" respectively) by their  
attorneys Allyn & Fortuna LLP, hereby answers the allegations in plaintiff UNITED  
NATIONAL SPECIALTY INSURANCE COMPANY's (hereinafter "United") Complaint as  
follows:

1. Defendants Cauldwell and M&P lack knowledge or information sufficient to form a  
belief as to the truth of the allegations of paragraph "1" of the plaintiff's complaint.

2. Defendants Cauldwell and M&P lack knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph "2" of the plaintiff's complaint.

3. Defendants Cauldwell and M&P admit the allegations in paragraph "3" of the plaintiff's complaint.

4. Defendants Cauldwell and M&P deny every allegation contained in paragraph "4" of the complaint.

5. Defendants Cauldwell and M&P lack knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph "5" of the plaintiff's complaint.

6. Defendants Cauldwell and M&P lack knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph "6" of the plaintiff's complaint.

7. Defendants Cauldwell and M&P deny every allegation contained in paragraph "7" of the complaint.

8. Defendants Cauldwell and M&P deny every allegation contained in paragraph "8" of the complaint and refer all matters of law and contract interpretation to the Court.

9. Defendants Cauldwell and M&P deny every allegation contained in paragraph "9" of the complaint.

10. Defendants Cauldwell and M&P lack knowledge or information sufficient to form a belief as to the truth of the allegations of paragraph "10" of the plaintiff's complaint.

11. Defendants Cauldwell and M&P deny every allegation contained in paragraph "11" of the complaint, accept admit that the underlying action referred to in plaintiff's answer alleges that the defendant Omar Paniagua was injured while in apartment F7 at 563 Cauldwell Avenue, Bronx County on October 19, 2006.

12. Defendants Cauldwell and M&P admit the allegations in paragraph "12" of the complaint.

13. In response to the allegations contained in paragraph "13" of the Complaint, defendants Cauldwell repeat and re-allege their responses to every allegation contained in paragraphs "1" through "12" of the Complaint.

14. In response to the allegations in paragraph "14", the defendants Cauldwell refers the court to the terms of the policy.

15. Defendants Cauldwell and M&P deny every allegation contained in paragraphs "15,16,17,18,19, and 20" of the complaint.

**FIRST AFFIRMATIVE DEFENSE**

16. The complaint fails to state a cause of action against the answering defendants upon which relief can be granted.

**SECOND AFFIRMATIVE DEFENSE**

17. Plaintiff's claims are barred by the doctrines of waiver.

**THIRD AFFIRMATIVE DEFENSE**

18. Plaintiff's claims are barred by the doctrines of estoppel.

**FOURTH AFFIRMATIVE DEFENSE**

19. Plaintiff's claims are barred by the doctrines of laches.

**FIFTH AFFIRMATIVE DEFENSE**

20. Plaintiff's claims are barred by the statute of limitations.

**SIXTH AFFIRMATIVE DEFENSE**

21. Plaintiffs' claims are barred by the doctrine of unclean hands.

**SEVENTH AFFIRMATIVE DEFENSE**

22. The plaintiff lacks subject matter jurisdiction over said defendants.

**EIGHTH AFFIRMATIVE DEFENSE**

23. The plaintiff lacks personal jurisdiction over the Defendant.

**NINTH AFFIRMATIVE DEFENSE**

24. Venue is improper.

**TENTH AFFIRMATIVE DEFENSE**

25. The plaintiff lacks standing to assert its claims against the Defendant.

**ELEVENTH AFFIRMATIVE DEFENSE**

26. Defendants Cauldwell and M&P qualify as an insured under the policy.

**TWELFTH AFFIRMATIVE DEFENSE**

27. Defendants Cauldwell and M&P gave timely notice of the occurrence and lawsuit to the plaintiff.

**THIRTEENTH AFFIRMATIVE DEFENSE.**

28. The plaintiff's claims are barred by collateral estoppel and by res judicata as the plaintiff's claims have already been determined in another action.

**WHEREFORE**, the defendants Cauldwell and M&P, respectfully requests that the Court issue a judgment in favor of defendants and against plaintiff as follows:

1. Dismissing the complaint in its entirety;
2. Awarding costs and reasonable attorneys' fees for the costs incurred in defending the instant action;
3. Awarding such further relief as this court deems proper.

Dated: New York, New York  
April 10, 2008

ALLYN & FORTUNA LLP

By: 

Nicholas Fortuna (NF 9191)

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